IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 524 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MAHOMMADSIDIQ RASULBHAI BAGBAN - Applicant(s)
Versus
STATE OF GUJARAT & 5 - Respondent(s)

==========

Appearance :
MR EE SAIYED for Applicant(s) : 1,
Mr SS Patetl, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,

==========

CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 05/02/2007

ORAL JUDGMENT

1. Learned counsel, Mr. E.E. Saiyed submitted that the petitioner was convicted for the offence

punishable under section 379 of Indian Penal Code for allegedly snatching away a small sum from the conductor and the offence was believed to have been committed by the petitioner on finding of Rs.68/- from his person when he was caught. He submitted that the original punishment of rigorous imprisonment for one year and fine of Rs. 2,000/- was already reduced in appeal to rigorous imprisonment for six months. He submitted that in such circumstances and heavy fine of Rs.2,000/- having already been paid by the petitioner, and the passage of time, the court may take a lenient view so as to reduce the punishment to fine only. He also submitted that the petitioner would have been entitled to the benefit of the provisions of Probation of Offenders Act, 1958, but that plea was not pressed in view of the passage of time and shifting of the place of residence of the petitioner.

2. Learned APP fairly conceded that the petitioner appeared to have been convicted for the first time and in absence of any evidence of previous conviction or report of any subsequent offence, taking of a

lenient view would be justified in the facts and circumstances of the case.

3. Therefore, the present application is partly allowed and the order of punishment made by the learned Metropolitan Magistrate, Ahmedabad in criminal case No.449 of 1993 as well as the order dated 12.3.1999 of the learned Addl.Sessions Judge, Ahmedabad in Criminal Appeal No.98 of 1998, are modified to the extent that the petitioner shall stand convicted for the offence under section 379 of the Indian Penal Code, shall stand punished with fine of Rs. 2,000/- and the punishment of imprisonment shall stand deleted. Rule is made absolute accordingly with no order as to costs.

[D. H. Waghela, J.]

msp